

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

—○○○—

DEPOSITION OF DENNIS CLAYPOOL

Friday, April 22, 2005

CERTIFIED COPY

REPORTED BY: DENISE A. FORD, CSR 7525 (364660)

EXHIBIT F



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1 easier to stay afloat, and that's when I pulled my arm
2 out of the water and hanging straight out. The two
3 blood vessels were squirting blood out, like a squirt
4 gun. I was screaming louder then. I put my hand in that
5 and tried to pulled my arm to me, which made it
6 difficult to stay afloat. I kept popping down and
7 trying not to let go of the arm because I was afraid I
8 was going to lose it.

9 One of the other divers, which was the certified
10 one, came up to me and eventually tried to hold me up
11 which helped a lot. I was still kicking with one leg.
12 He was trying to hold me up as much as he could help me.

13 I kept yelling and I saw the boat finally that
14 hit us turn around and start coming back towards us. It
15 gradually made a turn. It was going away pretty fast.
16 It eventually turned and came back towards us.

17 Q. Do you recall which way the vessel turned
18 as it was moving away from you?

19 Did it turn to the right or left?

20 A. To the left.

21 Q. And do you have any knowledge where Scott
22 was at the time when you were assisted by the certified
23 diver? You said he came up to assist you.

24 Do you have any recollection or knowledge where
25 Scott was at that time?

1 That said, I can't imagine why this is relevant
2 in any way to this lawsuit. As such, I don't think you
3 have a compelling need to get past his right of privacy.

4 If this is important, you can get an order on
5 it.

6 MS. BLACK: I am going to have to go to
7 the court and get an order on it. I will deal with it
8 at a later date or I will let Mr. Hewitt follow up if
9 necessary.

10 Q. Mr. Claypool, I noticed that you were
11 taking a couple of different medications before -- or at
12 least you had prescriptions for different medications
13 before the accident.

14 One was Accupril?

15 A. Yes.

16 Q. And what is Accupril for?

17 A. High blood pressure.

18 Q. And then there was also Lipitor; is that
19 correct?

20 A. Correct.

21 Q. And what is Lipitor for?

22 A. Cholesterol.

23 Q. Who prescribed the Accupril?

24 A. Lofgreen.

25 MR. LESSER: Asked and answered.

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1 You answered?

2 A. "No."

3 Q. "Are you currently taking medication that
4 carries a warning about any impairment of your physical
5 or mental abilities?"

6 You answered?

7 A. "No."

8 Q. "Are you or could you be pregnant?"

9 And you answered?

10 A. "No."

11 Q. "Do you have a history of colostomy?"

12 You answered?

13 A. "No."

14 Q. "Do you have a history of heart disease or
15 heart attack, heart surgery or blood vessel surgery?"

16 You answered?

17 A. "No."

18 Q. "Do you have a history of high blood
19 pressure, angina, or take medication to control blood
20 pressure?"

21 You answered?

22 A. "No."

23 Q. "Are you over 45 and have a family history
24 of heart attack or stroke?"

25 And you answered?

CERTIFICATE OF REPORTER

I, DENISE A. FORD, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

8 That said deposition was taken down in
9 shorthand by me, a disinterested person, at the time and
10 place therein stated, and that the testimony of the said
11 witness was thereafter reduced to typewriting, by
12 computer, under my direction and supervision;

13 I further certify that I am not of counsel or
14 attorney for either or any of the parties to the said
15 deposition, nor in any way interested in the event of
16 this cause, and that I am not related to any of the
17 parties thereto.

DATED: May 4, 2005.

DENISE A. FORD, CSR No. 7525

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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DEPOSITION OF DENNIS CLAYPOOL

VOLUME II

Saturday, April 23, 2005

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REPORTED BY: DENISE A. FORD, CSR 7525 (364661)

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1 Diving Practices?

2 MR. HILLSMAN: The question is do you
3 notice that?

4 MS. BLACK: Q. Do you notice that?

5 A. Yes.

6 Q. It is in bold print?

7 A. Yes.

8 Q. And you did take a look at these two pages
9 before you signed the form, did you not?

10 A. Yes.

11 Q. Did you go through the form and review on
12 the Medical Questionnaire before placing "no" next to
13 each and every one of those what it was asking you to
14 put down?

15 MR. HILLSMAN: Object to form.

16 MS. BLACK: I am looking at the first
17 page.18 MR. HILLSMAN: Object to form, vague and
19 ambiguous.

20 You can answer, if you can.

21 THE WITNESS: I think I understand what
22 you meant.23 MS. BLACK: Q. What I want to know,
24 before you answered "no" or put a "no" next to each of
25 these questions under the Medical Questionnaire, did you

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1 read it to see what it was asking for?

2 A. Yes.

3 Q. Why is it that you read this first page
4 and not the second page?

5 A. Because as you notice there are brackets
6 around the questions and brackets around where I am
7 supposed to put my address. Matt gave me this piece of
8 paper and said, Fill out the bracketed areas, answer all
9 the questions and sign it where the x's are below, your
10 name on the other two x's I put on the other page.
11 Those x's and brackets were put in by Matt, or he handed
12 it to me. I assume it was Matt.

13 Q. And so how much of this -- flipping to the
14 second page, how much of this second page did you
15 actually read or review before signing this form, any of
16 it?

17 A. Probably the paragraph right below my
18 first name there where it says something about I have
19 read and understood. When I picked up on that, I said
20 am I supposed to read and understand some Safe Driving
21 Practice book? What is that?

22 Q. Which part are you referring to?

23 A. The second paragraph under my name on the
24 left. There is, I -- participant's name -- and the I
25 read and affirm and understand the Save Diving

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1 the event.

2 Q. Now yesterday Mr. Formby started to ask
3 you questions about the distance from where you surfaced
4 from the Blue Dolphin, and you told him about how you
5 didn't have your glasses. You never got -- I don't
6 think we ever got a substantive answer.

7 When you surfaced with or without glasses, can
8 you estimate about how far you were from the Blue
9 Dolphin?

10 MR. FORMBY: Objection, calls for
11 speculation.

12 MR. LESSER: Q. Can you tell us about
13 how far you were from the Blue Dolphin when you
14 surfaced?

15 A. I was probably one boat length, maybe one
16 and a half maximum, two boat lengths away from the Blue
17 Dolphin, somewhere in that neighborhood, between one and
18 two boat lengths.

19 Q. And you don't need your glasses on to make
20 that estimate, do you?

21 MR. FORMBY: Objection. Calls for
22 speculation, no foundation.

23 THE WITNESS: That is just what I thought
24 it was. I can see the boat. It is just blurry. It is
25 not that I can't see the boat.

1 CERTIFICATE OF REPORTER

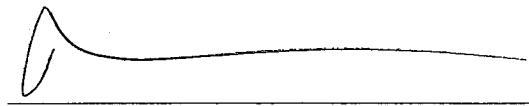
2 I, DENISE A. FORD, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell the
5 truth, the whole truth, and nothing but the truth in the
6 within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time and
9 place therein stated, and that the testimony of the said
10 witness was thereafter reduced to typewriting, by
11 computer, under my direction and supervision;

12 That before completion of the deposition,
13 review of the transcript [X] was [] was not requested.
14 If requested, any changes made by the deponent (and
15 provided to the reporter) during the period allowed are
16 appended hereto.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the said
19 deposition, nor in any way interested in the event of
20 this cause, and that I am not related to any of the
21 parties thereto.

22 DATED: 5/3/05

23 
24

25 DENISE A. FORD, CSR No. 7525